

HANG & ASSOCIATES, PLLC

ATTORNEYS AT LAW
136-20 38th Avenue, Suite 10G
Flushing, New York 11354

December 11, 2024

VIA ECF

Hon. Gary Stein, U.S.M.J.
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007-1312

MEMO ENDORSED

Re: **Agrana Fruit US, Inc. v. Ingredienttrade Inc.**
Civil Docket No. 1:23-cv-10147-ALC-GS

Joint Letter Motion for Extension of Time to Complete Expert Discovery

Dear Judge Stein:

Pursuant to Rule I(G) of Your Honor's Individual Practices, Plaintiff Agrana Fruit US Inc. ("Agrana") and Defendant Ingredienttrade Inc. ("Ingredienttrade") jointly submit this letter to respectfully request an extension of time to complete expert discovery through February 10, 2025. Specifically, Defendant seeks an extension to serve its expert report by January 10, 2025, with Plaintiff's deposition of Defendant's expert, Dr. Todd Menna, to be completed on or before February 10, 2025.

This is the parties' third request to extend the expert discovery deadline. The current deadline, December 13, 2024, was set by the Court's Order dated November 4, 2024 (ECF No. 47). Since then, the parties have conferred and agreed on protocols for the testing of metal samples identified by Plaintiff's expert, including shipping methods, non-destructive testing procedures, and the custody and retention of physical evidence. The requested extension reflects a good-faith estimate of the time required to complete these steps.

Hon. Gary Stein
Page 2

Plaintiff shipped the metal samples on December 6, 2024. Defendant's expert witness service provider, Element Materials Technology, received the samples on December 9, 2024. Element Materials Technology estimates that it will need approximately three weeks for testing and an additional week to prepare the expert report. Plaintiff then plans to depose Dr. Menna within the following weeks. This timeline also accounts for potential delays associated with the holiday season.

Good cause exists for the requested extension under Rule 16(b)(4) of the Federal Rules of Civil Procedure, which allows modification of a scheduling order for good cause and with the Court's consent. As explained in *Kassner v. 2nd Ave. Delicatessen*, 496 F.3d 229, 244 (2d Cir. 2007), the good cause inquiry focuses primarily on the diligence of the parties. Here, both parties have been diligent in pursuing expert discovery:

Defendant served its Second Request for Production and a proposed joint inspection protocol on October 8, 2024.

Plaintiff responded on November 14, 2024, following the Court's November 4, 2024 Order.

After a settlement conference on November 26, 2024, the parties promptly resumed discussions and reached an agreement on the discovery timeline.

Given these efforts, the parties have exercised reasonable diligence in attempting to comply with the current scheduling order.

Accordingly, we respectfully request that the Court grant this motion to extend the expert discovery deadline through February 10, 2025.

Thank you for Your Honor's time and attention to this matter.

Respectfully submitted,

HANG & ASSOCIATES, PLLC

By: s/ Ge Qu
Ge Qu, Esq.
136-20 38th Ave. Suite 10G
Flushing, New York 11354
T: (718) 353-8588
E: rqu@hanglaw.com

**BENESCH, FRIEDLANDER, COPLAN &
ARONOFF, LLP**

By: s / Clare Taft
Deana S. Stein (DS5047)
Eric Larson Zalud (*admitted pro hac vice*)
Clare R. Taft (*admitted pro hac vice*)
127 Public Square, Suite 4900
Cleveland, OH 44114

Hon. Gary Stein
Page 3

Attorney for Defendant Ingredienttrade, Inc.

T: (216) 363-6170

F: (216) 363-4588

E: dstein@beneschlaw.com

ezalud@beneschlaw.com

ctaft@beneschlaw.com

Attorneys for Plaintiff Agrana Fruit US, Inc.

As the parties both agree to extend the expert discovery deadline, and it appears they have made significant progress with expert discovery since Defendant's last request for an extension, the parties' application is GRANTED.

Date: December 12, 2024
New York, NY

SO ORDERED:



HON. GARY STEIN
UNITED STATES MAGISTRATE JUDGE